



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 26, 1996

Dr. Nolan L. Kinsey
Superintendent
Quinlan Independent School District
P.O. Box 466
Quinlan, Texas 75474

OR96-0613

Dear Dr. Kinsey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37600.

The Quinlan Independent School District (the "school district") received a request for copies of Dr. Nolan Kinsey's and Mr. Jim Cain's contracts for the 1995 - 1996 school year. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Chapter 552 of the Government Code imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by showing that information is made confidential by another source of law or affects third party interests).

It appears that the school district received the request for information on November 21, 1995. You did not seek an opinion from this office until December 4, 1995, more than ten days after the school district's receipt of the request. However, you have claimed that the requested information is excepted from disclosure because it is confidential by law and it is protected by privacy. These are compelling reasons to withhold information under chapter 552 of the Government Code. Therefore, we address your claimed exceptions.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. We have reviewed Senate Bill 1, which you claim makes the requested contracts confidential. We have not found, and you have not indicated, any section of that bill which makes the requested information confidential. Therefore, the school district may not withhold the requested information under that portion of section 552.101.

Section 552.101 also encompasses common-law and constitutional privacy. Under common-law privacy, private facts about an individual are excepted from disclosure. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1.

The constitutional right to privacy protects two interests. Open Records Decision No. 600 (1992) at 4 (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490 (5th Cir. 1985), *cert. denied*, 474 U.S. 1062 (1986)). The first is the interest in independence in making certain important decisions related to the "zones of privacy" recognized by the United States Supreme Court. Open Records Decision No. 600 (1992) at 4. The zones of privacy recognized by the United States Supreme Court are matters pertaining to marriage, procreation, contraception, family relationships, and child rearing and education. *See id.*

The second interest is the interest in avoiding disclosure of personal matters. The test for whether information may be publicly disclosed without violating constitutional privacy rights involves a balancing of the individual's privacy interests against the public's need to know information of public concern. *See* Open Records Decision No. 455 (1987) at 5-7 (citing *Fadjo v. Coon*, 633 F.2d 1172, 1176 (5th Cir. 1981)). The scope of information considered private under the constitutional doctrine is far narrower than that under the common law; the material must concern the "most intimate aspects of human affairs." *See* Open Records Decision No. 455 (1987) at 5 (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490, 492 (5th Cir. 1985), *cert. denied*, 474 U.S. 1062 (1986)).

In the past, this office has concluded that the doctrine of common-law privacy does not protect an applicant's or employee's educational training; names and addresses of former employers; dates of employment, kind of work, salary, and reasons for leaving; names, occupations, addresses and phone numbers of character references; job performance or ability; birth dates; height; weight; marital status; and social security numbers. *See generally* Open Records Decision No. 455 (1987) at 8. We have examined the contracts submitted to us for review. We conclude that they do not contain any information that is intimate or embarrassing. Accordingly, the school district may not withhold the contracts under the privacy provisions of section 552.101 of the Government Code.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

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Ref.: ID# 37600

¹We note that the contracts contain the home addresses of public employees. If, at the time the request for information was received by the school district, these employees had elected to keep their home address confidential pursuant to section 552.024 of the Government Code, that information must be withheld. Gov't Code § 552.117. Although we did not see any social security numbers in the submitted documents, we address this type of information. Federal law may prohibit disclosure of these employees' social security numbers. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994); *see also* 42 U.S.C. § 405 (c)(2)(C)(i), (v)-(vi) (governing release of social security number collected in connection with the administration of any general public assistance, driver's license or motor vehicle registration law). Based on the information you have provided, we are unable to determine whether any social security numbers are confidential under this federal statute. We note, however, that section 552.352 of the Open Records Act imposes criminal penalties for the release of confidential information.

Enclosures: Submitted documents

cc: Mr. James Anderton
Route 4, Box 407
Quinlan, Texas 75474
(w/o enclosures)